

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/24/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA :
 :
-against- :
 :
JOHN HUGHES, :
 :
 :
Defendant. :
----- X

15-CR-537 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on June 25, 2020, Defendant filed a motion to vacate his conviction in light of *United State v. Davis* (Dkt. 1506);

WHEREAS on July 24, 2020, the Government indicated that it did not intend to oppose Defendant's motion (Dkt. 1523);

WHEREAS on October 30, 2020, the parties requested that the Court schedule an appearance for vacatur of Defendant's conviction, the filing of a Superseding Information, a change of plea, and sentencing (Dkt. 1566);

WHEREAS a hearing is scheduled for December 1, 2020 at 10:00 a.m.;


IT IS HEREBY ORDERED:

1. Due to the COVID-19 pandemic, the hearing is adjourned to **December 10, 2020 at 9:00 a.m.** Counsel will be provided with call-in instructions via email. MDC is directed to produce Mr. Hughes for his video appearance.
2. No later than **December 1, 2020**, defense counsel must file either an executed waiver (attached to this Order) or a letter requesting that the video conference be rescheduled as an in-person conference on a date convenient to all parties.

3. To optimize use of the Court's video conferencing technology, all parties on the call must:
 - i. Use a browser other than Microsoft Explorer to access the video feed on Court Call;
 - ii. Position the participant's device as close to the WiFi router as is feasible;
 - iii. Ensure any others in the participant's household are not using WiFi during the period of the call;
 - iv. If the participant is participating by video, connect to the audio portion of the videoconference by having Court Call call the participant at a desired phone number (landline or mobile), rather than using computer audio;
 - v. If there is ambient noise, the participant must mute his or her device when not speaking.
4. Sentencing submissions are due by **December 1, 2020**.
5. **No later than December 1, 2020**, the Government is directed to submit Mr. Hughes' disciplinary records.

SO ORDERED.

Date: November 24, 2020
New York, NY



VALERIE CAPRONI
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

-v-

,
Defendant.

**WAIVER OF RIGHT TO BE
PRESENT AT CRIMINAL
PROCEEDING**

-CR- () ()

Check Proceeding that Applies

_____ Arraignment

I have been given a copy of the indictment containing the charges against me and have reviewed it with my attorney. I understand that I have a right to appear before a judge in a courtroom in the Southern District of New York to confirm that I have received and reviewed the indictment; to have the indictment read aloud to me if I wish; and to enter a plea of either guilty or not guilty before the judge. After consultation with my attorney, I wish to plead not guilty. By signing this document, I wish to advise the court of the following. I willingly give up my right to appear in a courtroom in the Southern District of New York to advise the court that:

- 1) I have received and reviewed a copy of the indictment.
- 2) I do not need the judge to read the indictment aloud to me.
- 3) I plead not guilty to the charges against me in the indictment.

Date:

Print Name

Signature of Defendant

_____ Entry of Plea of Guilty

I am aware that I have been charged with violations of federal law. I have consulted with my attorney about those charges. I have decided that I wish to enter a plea of guilty to certain charges. I understand I have a right to appear before a judge in a courtroom in the Southern District of New York to enter my plea of guilty and to have my attorney beside me as I do. I am also aware that the public health emergency created by the COVID-19 pandemic has interfered with travel and restricted access to the federal courthouse. I have discussed these issues with my attorney. By signing this document, I wish to advise the court that I willingly give up my right to appear in person before the judge to enter a plea of guilty. By signing this document, I also wish to advise the court that I willingly give up any right I might have to have my attorney next to me as I enter my plea so long as the following conditions are met. I want my attorney to be able to participate in the proceeding and to be able to speak on my behalf during the proceeding. I also want the ability to speak privately with my attorney at any time during the proceeding if I wish to do so.

Date:

Print Name

Signature of Defendant

____ Sentence

I understand that I have a right to appear before a judge in a courtroom in the Southern District of New York at the time of my sentence and to speak directly in that courtroom to the judge who will sentence me. I am also aware that the public health emergency created by the COVID-19 pandemic has interfered with travel and restricted access to the federal courthouse. I do not wish to wait until the end of this emergency to be sentenced. I have discussed these issues with my attorney and willingly give up my right to be present, at the time my sentence is imposed, in the courtroom with my attorney and the judge who will impose that sentence. By signing this document, I wish to advise the court that I willingly give up my right to appear in a courtroom in the Southern District of New York for my sentencing proceeding as well as my right to have my attorney next to me at the time of sentencing on the following conditions. I want my attorney to be able to participate in the proceeding and to be able to speak on my behalf at the proceeding. I also want the ability to speak privately with my attorney at any time during the proceeding if I wish to do so.

Date:

Print Name

Signature of Defendant

I hereby affirm that I am aware of my obligation to discuss with my client the charges against my client, my client's rights to attend and participate in the criminal proceedings encompassed by this waiver, and this waiver and consent form. I affirm that my client knowingly and voluntarily consents to the proceedings being held with my client and me both participating remotely.

Date:

Print Name

Signature of Defense Counsel

Addendum for a defendant who requires services of an interpreter:

I used the services of an interpreter to discuss these issues with the defendant. The interpreter also translated this document, in its entirety, to the defendant before the defendant signed it. The interpreter's name is: _____.

Date:

Signature of Defense Counsel

Accepted:

Signature of Judge

Date: